by N. Y. Laws 1916, c. 323. *In re Van Deusen's Estate* (Surr. Ct. Columbia Co. 1922) 118 Misc. 212, 191 N. Y. Supp. 762.

New York Tax Law, §220(7) provides that when property is deposited in the joint names of two or more persons and payable to either or the survivor, upon the death of one of such persons, it shall be deemed a transfer and taxed as though the whole property had belonged to the deceased and had been willed by him. It has been held that only donative transfers are taxable under this section. *Matter of Weissbach* (1920) 111 Misc. 501, 183 N. Y. Supp. 771; *Matter of Van Vranken* (1920) 110 Misc. 84, 179 N. Y. Supp. 752. According to this view, only the portion of the joint account contributed by the deceased is taxable. *Matter of Weissbach, supra.* It has also been held that the entire account is taxable regardless of the proportion of contribution. *Matter of Bigelow* (1919) 108 Misc. 601, 177 N. Y. Supp. 847. Under the same section of the Act, the entire value of an estate by the entirety has been held taxable regardless of the proportion of contribution to the purchase price. *Matter of Chase* (1920) 112 Misc. 684, 183 N. Y. Supp. 638. To tax the entire account seems to be the better interpretation of the language of the statute, especially so, as the view of the instant case merely leaves the law as it was before the adoption of N. Y. Laws 1915, c. 664, which is practically identical with the present section. *Matter of Durfee* (1913) 79 Misc. 665, 140 N. Y. Supp. 594; see (1913) 13 COLUMBIA LAW REV. 657.

TROVER AND CONVERSION—TENANTS IN COMMON—SEVERABLE CHATTELS.—The defendant received four bales of cotton as rent from land held as tenant in common with the plaintiff. Upon demand and refusal, the plaintiff brought trover for his share. *Held,* for the defendant. "As a general rule trover will not lie in favor of a tenant in common against his co-tenant." *Hale* v. *Hale* (Ga. 1922) 111 S. E. 740.

The above statement has become the exception rather than the rule. At common law the fact that tenants in common had an equal right of possession precluded bringing a possessory action for the retention or even sale of the chattel and the deprived party was left to his precarious privilege of recapture. Lit. § 323; see *Mayhew* v. *Herrick* (1849) 7 C. B. 229, 245. However, if the holder destroyed the chattel the co-tenant lost even this privilege, so an action of conversion was allowed. Co. Lit. § 200 a, b. Through a liberal interpretation of what constituted destruction, an action of conversion was allowed in cases of loss, see *Hall* v. *Page* (1848) 4 Ga. 428, 435, and sale. *Dyckman* v. *Valiente* (1870) 42 N. Y. 549. A modern extension adopted by some states, Georgia among them, allows an action as soon as the party in possession sets up an exclusive claim. *Bray* v. *Bray* (1874) 30 Mich. 479; see *Roddy* v. *Cox* (1859) 29 Ga. 298, 309. Furthermore, the theory being that one is entitled to the whole only when it is essential to the enjoyment of his moiety, in cases of chattels by their natures severable into portions alike in quantity and quality, the maxim *Cessante ratione legis, cessat ipsa lex* has been applied and the great majority of jurisdictions have allowed an action of trover for their detention. *Lobdell* v. *Stowell* (N. Y. 1865) 37 How. Pr. 88; *Fiquet* v. *Allison* (1864) 12 Mich. 328; *contra, Carr* v. *Dodge* (1860) 40 N. H. 403. The court seems to have overlooked both its previous decision in *Roddy* v. *Cox, supra,* whereby the exclusive claim of the defendant would entitle the plaintiff to recover, and the fact that the chattels were clearly of such severable nature as to constitute the defendant a mere bailee of the plaintiff as regards them.